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CHARLES ELMORE

FILE COPY

No. 548

In the Supreme Court of the United States

OCTOBER TERM, 1929

THE UNITED STATES OF AMERICA

v.

MATTIE PUCKETT WORLEY, ADMINISTRATRIX OF THE ESTATE OF EMMET A. PUCKETT, DECEASED, AND MATTIE PUCKETT WORLEY, INTERVENER

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MOTION TO ADVANCE

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v.

MATTIE PUCKETT WORLEY, ADMINISTRATRIX OF THE estate of Emmet A. Puckett, deceased, and Mattie Puckett Worley, intervener

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MOTION TO ADVANCE

The Solicitor General, on behalf of the United States, moves to advance this cause for early hearing during the present term.

This action was brought on a contract of war-risk insurance in the District Court of the United States for the District of Nebraska, and a judgment was entered against the United States. The District Court awarded interest, costs, and future installments of insurance in favor of the plaintiff. The Government took an appeal to the United States Circuit Court of Appeals for the Eighth

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Circuit and that court has certified the following questions to this Court:

> Upon the facts above stated, does the United States, as matter of law, stand in the position of one who has gone into the business of insurance, and must, therefore, be assumed to have accepted the ordinary incidents of suits in such business?
>
> In case of a finding in favor of plaintiff and intervener, may judgment be entered against the United States for the amounts of insurance installments maturing after the action was instituted?
>
> In case of a finding and judgment in favor of the plaintiff and intervener, is interest allowable against the United States upon the monthly installments from the date they are found to be due?
>
> In case of a finding and judgment in favor of plaintiff and intervener, may costs be awarded generally against the United States, upon condition that they be paid from accumulated funds in the hands of the Veterans' Bureau, if any, available for that purpose?

There are now pending in the various United States District Courts approximately 4,500 war-risk insurance cases and the questions of the right to award future installments and interest and costs are involved in most of them. The District Courts are not uniform in their decisions on these questions and the Government now has on appeal in the Circuit Courts of Appeals cases involving one or more of these points.

On December 2, 1929, this Court granted a petition for a writ of certiorari in the case of *Charles Jackson* v. *United States,* No. 463, which involves the sole question of the right to allow interest against the United States in a judgment entered on a war-risk insurance contract; in that case the United States Circuit Court of Appeals for the Tenth Circuit held that interest could not be awarded against the Government. That question is included in the above questions which have been certified by the Circuit Court of Appeals for the Eighth Circuit and this Court may deem it advisable to advance also the *Jackson case.*

The above-mentioned questions are of great importance in this class of litigation, and it is believed to be in the public interest that they be finally settled for the guidance of the lower courts in properly disposing of the many cases pending on their dockets. In order that the Circuit Courts of Appeals may not be congested with numerous appeals on these points an early hearing of this case is requested.

Counsel for the administratrix and intervener advise that they concur in this motion.

Respectfully submitted.

CHARLES E. HUGHES, Jr.,
Solicitor General.

JANUARY, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930